

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is made this ____ day of _____, 200_, by the County/City Name, herein called "County/City", and the California Integrated Waste Management Board, herein called "CIWMB".

RECITALS

A. The California Integrated Waste Management Act of 1989 [Public Resources Code (PRC), Section 40051, et seq.], hereinafter referred to as the "Act", allows counties and cities to designate a local enforcement agency, or, in the absence of a designation, requires the CIWMB to enforce the standards for solid waste handling and disposal to protect the public health, safety and environment within such jurisdiction.

B. The County/City has withdrawn designation of a local enforcement agency. The County/City has a solid waste facility, a disposal site, and handling and transportation equipment. Pursuant to the Act, the CIWMB is obligated to act as the enforcement agency within the County/City. The Act provides that when the CIWMB becomes the enforcement agency, it may charge reasonable fees to the local governing body, a solid waste facility operator, or a solid waste enterprise, to recover operation costs.

C. Pursuant to PRC, Sections 43310.1 and 43212.1, the County/City and CIWMB desire to enter into an agreement to identify the jurisdictional boundaries of the enforcement agency, address the powers and duties to be performed by the CIWMB and identify an estimated workload and anticipated costs to the CIWMB.

NOW, THEREFORE, in consideration of the recitals and the mutual obligations of the parties as herein expressed, the County/City and CIWMB agree as follows:

1. The CIWMB, as the enforcement agency for the County/City, agrees to perform tasks and duties, including, but not limited to those listed below, ensuring that all regulated facilities and disposal sites within the County/City shall:
 - a. Comply with State Minimum Standards [as defined in California Code of Regulations (CCR), Title 27, Section 20164 and described in CCR, Title 14, Division 7, Chapter 3] and the terms and conditions of the solid waste facility permits; and
 - b. Obtain permits or exemptions as may be required under the Act; and
 - c. Remedy any violations cited under enforcement action(s) pursuant to 14 CCR 18084.
2. An estimated time/task analysis for CIWMB staff to perform enforcement functions within the County/City is attached to this Memorandum of Agreement as Attachment A and is hereby incorporated into this MOA by this reference.
 - a. The analysis is determined based on the following criteria:
 - (1) the number and type of operating and non-operating solid waste facilities, disposal sites, and collection and handling equipment;
 - (2) the number of annual compliance and projected complaint inspections based on the previous year's records and anticipated additions or deletions;
 - (3) the following staff activities:
 - (i) inspections, travel, research, analysis of findings and documentation;

(ii) enforcement activities including warnings, notices, meetings, hearings, legal proceedings and documentation;

(iii) permit activities including reviews, modifications and revisions, and closure or postclosure activities, including applications and plan reviews, site evaluations and investigations, and documentation;

(iv) corrective actions including review and approval of site investigations, assessments, characterizations, remediation alternatives, and corrective measures.

b. Limited specialized services shall also be provided by the CIWMB as necessary to perform the duties required of the enforcement agency.

c. The staff allocation is a good faith estimate and may not reflect the actual amounts to be billed to solid waste facility operators or solid waste enterprises within the County/City.

3. The CIWMB shall determine the charges for services performed as the enforcement agency within the County/City based on the actual hours spent and expenses incurred and the CIWMB fee rate for the same period of service.

4. a. The CIWMB, acting as the reviewing agency, shall act upon applications by any operators within the County/City, if any, for solid waste facility permits according to the following process, as necessary:

(1) verification of the submission of required documents, site and personal information;

(2) evaluation of the application documents for accuracy and conformity with appropriate solid waste statutes and regulations;

(3) compliance review with the California Environmental Quality Act (Public Resources Code, Section 21000 et. seq.) for short and long term environmental impacts, damage, and proposed mitigation measures;

(4) determination of whether or not to accept the application and proceed with a proposed permit for CIWMB consideration;

(5) initiation of the appropriate public notice and comment period;

(6) submittal of copies of the above documents, notices, comments, and responses to any party requesting such information in writing;

(7) preparation of permits with specific conditions for design, operation, and adverse environmental effects, monitoring and mitigation;

(8) submittal of proposed permits to the applicant;

(9) provide for permit review and acceptance by the applicant, and a hearing panel process if necessary;

b. The CIWMB shall receive Enforcement Agency Notifications (as described in CCR, Title 14, Division 7, Chapter 5, Article 3.1) from any operators within the County/City. The

CIWMB shall retain the notifications for a minimum of one year after the cessation of operations.

c. Pursuant to PRC, Division 30, Parts 4 and 5 and 27 CCR, Subdivision 1, Chapter 3, Subchapter 5, Article 2, and Chapter 4, the CIWMB shall require any person owning or operating a solid waste landfill within the County/City to submit for approval the following:

- (1) plans for the landfill closure and postclosure maintenance;
- (2) estimates of closure and postclosure maintenance costs; and
- (3) financial mechanisms to ensure adequate availability of funds.

5. The CIWMB shall conduct solid waste facility permit reviews as required by PRC, Sections 44015 and 14 CCR 18213.

6. The CIWMB shall perform inspections of solid waste facilities, solid waste operations, and disposal sites within the County/City as required by PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapters 3 and 5.

7. a. If during an inspection, investigation, or at any other time, the CIWMB finds a solid waste facility or disposal site in violation of state regulations, or the terms and conditions of the permit, the CIWMB shall enforce the applicable provisions as required by PRC, Division 30 and 14 CCR Division 7, Chapter 5, Article 4. CIWMB enforcement actions shall address the following categories of violations including, but not limited to:

- (1) operational violations pursuant to 27 CCR, Chapter 3 and 14 CCR Division 7, Chapter 3 and PRC, Division 30;
- (2) emergency violations which are violations of subsection (1) above which present an imminent threat to public health, safety, or the environment and require immediate action pursuant to PRC, Division 30, Part 5;
- (3) closure and postclosure violations pursuant to PRC, Division 30, Part 4, Chapter 2, Articles 3 and 4, Part 5, and 27 CCR Subdivision 1, Subchapter 5, Article 2, and Chapter 4, Subchapter 4;
- (4) permit terms and conditions.

CIWMB enforcement action options include, but are not limited to, as set forth in PRC, Division 30, Parts 4 and 5 and 14 CCR Division 7, Chapter 5, Article 4.

8. The CIWMB may conduct hearings to determine if facilities and collection vehicles are in compliance with State Minimum Standards. Compliance with State Minimum Standards is enforced through the means of inspections and enforcement orders. In the event that violations of standards persist, excluding permit violations, an office hearing with CIWMB staff may be scheduled to determine the gravity of the violations. At the conclusion of the hearing, a compliance agreement will be developed that shall lead to compliance.

9. As part of the enforcement agency responsibility, the CIWMB will conduct administrative tasks reasonably related to its solid waste enforcement activities. Examples of administrative tasks include report writing, office conferences, telephone calls, records maintenance, billing, and attendance at meetings related to solid waste enforcement activities in County/City. The CIWMB will maintain

service records containing the following data for each service or activity: date, staff hours, facility location by "SWIS" number, inspector name and type of activity. Travel and other expenses will be itemized. Upon termination of this MOA, the CIWMB shall make available at reasonable times and places to the County/City, the documents and files maintained by the CIWMB pursuant to enforcement activities under the MOA.

10. The County/City will administer and implement all provisions of the list the local ordinances. The CIWMB is not responsible for aspects of solid waste handling which are of local concern, as described in PRC, Section 40059.

11. Any dispute that develops between the parties hereto with regard to matters arising out of or related to this MOA, and that the parties do not resolve within 90 days, shall be submitted to mediation if so requested by one of the parties. Within 15 days of such request, the parties shall select a mutually acceptable mediator. Each party shall bear its own costs (including, without limitation, attorney's fees) incurred in connection with the mediation. In the event the mediator is unable to resolve the dispute, then the parties may pursue any and all remedies available to them.

12. To recover costs associated with the enforcement agency services provided by the CIWMB within the County/City, the CIWMB will impose fees on the solid waste facility operators and/or solid waste enterprises. This MOA shall constitute the consultation called for pursuant to PRC, Section 43212(a). The fee will include, but may not be limited to, compensation for staffing, per diem and transportation costs. Staffing costs will be determined by using a billable hourly rate as adopted by the CIWMB. The CIWMB will provide quarterly, itemized invoices to the County/City. The itemized invoices shall have a level of detail comparable to the tasks discussed in Paragraph 9. The County/City shall remit payment within 45 days of receipt of invoices, assuming no dispute over invoiced costs. The County/City may request evidence of invoiced costs.

13. Upon the termination of this MOA, the CIWMB shall make available copies of all files created under this MOA to the County/City upon written demand.

14. The term of this MOA shall commence on the date set forth above and continue through June 30, _____, unless sooner terminated by mutual written agreement of the parties. This MOA, after expiration of the initial term, shall be automatically renewed on an annual basis from the commencement date so long as the County/City does not designate a local enforcement agency that is certified by the CIWMB.

No later than ninety (90) days prior to the expiration of any given fiscal year during the term of this MOA, either party may request in writing that the other party meet and confer to renegotiate any clause of this MOA. In the event that the parties are unable to reach agreement after meeting and conferring, then the party who requested to meet and confer may terminate this MOA by giving the other party written notice, provided that such notice is given at least sixty (60) days prior to the expiration of the fiscal year.

IN WITNESS WHEREOF, this Memorandum is executed by the County/City, acting by and through its County Administrative Office/City Manager, pursuant to Resolution No. _____ authorizing such execution, and by the California Integrated Waste Management Board, acting by and through its Executive Director, pursuant to Resolution No. _____, authorizing such execution.

COUNTY/CITY OF _____

By _____
CAO/City Manager

CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD

By _____
Executive Director

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